



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0024]

Parts and Accessories Necessary for Safe Operation; Virginia Tech Transportation Institute Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Virginia Tech Transportation Institute's (VTTI) exemption application to allow the placement of camera-based data acquisition systems (DAS) at the bottom of windshields on commercial motor vehicles (CMVs). The Federal Motor Carrier Safety Regulations (FMCSRs) require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. As part of a National Highway Traffic Safety Administration (NHTSA) research program, VTTI is coordinating development and installation of the DASs in up to 150 CMVs. The exemption will enable VTTI and NHTSA to conduct research on the reliability of collision avoidance systems for CMVs. FMCSA believes that mounting the DASs at the bottom of the windshield would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and ends **May 20, 2017.**

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5370, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

ADDRESSES: For access to the docket to read background documents, including those referenced in this document, or to read comments received, go to:

- Regulations.gov, <http://www.regulations.gov>, at any time and insert FMCSA-2015-0024 in the “Keyword” box, and then click “Search.”
- Docket Management Facility, Room W12-140, DOT Building, 1200 New Jersey Ave., SE, Washington, DC 20590. You may view the docket online by visiting the facility between 9 a.m. and 5 p.m., Monday through Friday except Federal holidays.

Viewing Comments and Documents

To view comments filed in this docket, go to <http://www.regulations.gov> and click on the “Read Comments” box in the upper right hand side of the screen. Then, in the “Keyword” box, insert “FMCSA-2015-0024” and click “Search.” Next, click “Open Docket Folder” in the “Actions” column. Finally, in the “Title” column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket by visiting the Docket Management Facility at the address above.

Privacy Act

In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the

system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by compliance with the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

VTTI's Application for Exemption

VTTI applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of DASs at the bottom of the windshield on CMVs (80 FR 8750, Feb. 18, 2015). A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

VTTI applied for the exemption because it wants to install DASs in up to 150 CMVs operating throughout the United States in support of research being conducted on behalf of NHTSA. VTTI contends that it must be able to mount the DASs lower than allowed under 49 CFR 393.60(e)(1) "because the safety equipment must have a clear forward facing view of the road, and low enough to accurately scan facial features for detection of impaired driving." VTTI wants to mount the DASs and necessary brackets at the bottom of the windshield, preferably 3 inches or less above of the bottom of the wiper sweep and out of the driver's sightlines to the road and highway signs and signals, to the extent practicable.

FMCSA Grant of Waiver to VTTI

Pursuant to 49 U.S.C. 31315(a) and 49 CFR part 381, subpart B, the FMCSA granted VTTI a 90-day waiver on January 26, 2015 to allow the placement of the DASs at the bottom of windshields on CMVs, outside of the area permitted by section 393.60 of the FMCSRs. This waiver is effective from January 26, 2015, through April 25, 2015. Up to 150 DASs have been installed in CMVs operated by 7 carriers.

During the waiver period, motor carriers participating in the NHTSA research program must ensure that the DASs are mounted within three inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals as much as practicable. Vehicles participating in the study must

carry a copy of the waiver in the vehicle. A copy of the FMCSA waiver letter to VTTI is included in the docket referenced at the beginning of this notice.

Comments

FMCSA published a notice of the exemption application in the Federal Register on February 18, 2015, and asked for public comment (80 FR 8750). No comments were received.

FMCSA Decision

The FMCSA has evaluated the VTTI exemption application. The Agency believes that granting the temporary exemption to allow the placement of the DASs and necessary mounting brackets at the bottom of the windshield, within and/or below 3 inches of the bottom of the windshield wiper sweep, will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption. FMCSA does not believe there will be any degradation in the safety performance of motor carriers utilizing the exemption during the 2-year exemption period because (1) there is nothing in available technical information to indicate that the DASs would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position which greatly improves the forward visual field of the driver, making any impairment of available sight lines minimal; and (3) the location three inches or less above the bottom of the driver's-side windshield wiper sweep, and out of the driver's sightline, is reasonable and enforceable at roadside. Without the exemption, NHTSA would be unable to test this innovative onboard safety monitoring system.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a two-year period, beginning [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending May 20, 2017.

During the temporary exemption period, up to 150 DASs may be installed in CMVs operated by the motor carriers listed below. These are the same carriers that have operated under the waiver:

1. USDOT # 32052 Crosby Trucking Service Inc. in Mount Sydney. VA.
2. USDOT # 369138 Rush Trucking Corporation in Wayne, MI.
3. USDOT # 1977980 Kuperus Trucking Inc. in Jenison, MI.
4. USDOT # 282628 Stagecoach Cartage and Distribution, LP in El Paso, TX.
5. USDOT # 184405 J & M Tank Lines Inc. in Birmingham, AL.
6. USDOT # 1243338 P&S Transportation LLC in Ensley, AL.
7. USDOT # 75827 Modular Transport Company in Wyoming, MI.

These motor carriers must ensure that the DASs are mounted within and/or below 3 inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals as much as practicable.

The exemption is valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers

using the DASs are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: May 5, 2015

T.F. Scott Darling, III
Chief Counsel

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